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Attorneys for Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL CHURCH OF THE
FOURSQUARE GOSPEL

Plaintiff,

v.

CITY OF SAN LEANDRO, TONY SANTOS
(in his official capacity), SURLENE G.
GRANT (in her official capacity), DIANA M.
SOUZA (in her official capacity), JOYCE R.
STAROSCIAK (in her official capacity), BILL
STEPHENS (in his official capacity), JIM
PROLA (in his official capacity), JOHN
JERMANIS (in his official and individual
capacities), DEBBIE POLLART (in her official
and individual capacities), DOES 1-50.

Defendants.

Case No. C 07-03605 PJH

**DECLARATION OF PETER S.
HAYES IN SUPPORT OF
DEFENDANTS' MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO MOTION FOR
PRELIMINARY INJUNCTION**

Date: September 5, 2007
Time: 9:00 a.m.
Courtroom: 3
Complaint Filed: 7/12/07
Hon. Phyllis J. Hamilton

1 I, Peter S. Hayes, declare as follows:

2 1. I am an attorney at the law firm of Meyers Nave, which has been retained as attorney
3 of record for Defendants in this matter. I have personal knowledge of the matters stated in this
4 Declaration, and I could competently testify about them if called upon to do so.

5 2. Attached as Exhibit A is a true and correct copy of correspondence from Jayne W.
6 Williams, City Attorney of the City of San Leandro, to Peter MacDonald, attorney for Plaintiff
7 International Church of the Foursquare Gospel, dated May 11, 2007.

8
9 I declare under penalty of perjury under the laws of the State of California that the foregoing
10 is true and correct.

11 Executed on this 15th day of August in Oakland, California.

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14 
Peter S. Hayes

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EXHIBIT A

meyers nave riback silver & wilson
professional law corporation

Jayne W. Williams
Attorney at Law
510.808.2000

**This Letter Constitutes "Settlement Negotiations," "Offers to Compromise,"
And "Offers to Discount Claims" within the Meaning of California Evidence
Code Sections 1119, 1152 and F.R.E. 408.**

May 11, 2007

Peter MacDonald, Esq.
400 Main Street, Suite 210
Pleasanton, CA 94566-7371

Kevin T. Snider, Esq.
Pacific Justice Institute
P.O. Box 276600
Sacramento, CA 95827

Re: Faith Fellowship Church

Dear Mr. MacDonald and Mr. Snider:

As you are aware, the San Leandro City Council, at its May 7, 2007, public meeting, rejected an appeal by your client, International Church Foursquare Gospel, a.k.a. Faith Fellowship Church (hereinafter, "Church"), of a denial of its application to rezone property at 14600 Catalina Street. The City is in receipt of Mr. McDonald's letter in support of that appeal, dated May 4, 2007, to which was attached Mr. Snider's letter, dated May 2, also on behalf of the Church in support of its appeal. Mr. Snider's letter, as you know, asserts *inter alia* that denial of the Church's application may contravene the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc ("RLUIPA") and the protections of the First and Fourteenth Amendments to the Constitution, and warns of potential litigation. The City has also received oral warnings of potential litigation from persons associated with the Church.

The City, while disputing the legal, and many of the factual, contentions of the letters referenced above, is nonetheless cognizant of its responsibilities under the Constitution and RLUIPA, and moreover is committed to ensuring that the members of the Church – like all the people of San Leandro – can fully exercise their constitutional and legal rights to religious expression within the City. To that end, prompted by the Church's initial 2006 application for a rezoning of its Catalina Street site, the City recently expanded significantly the area within which religious and secular assembly uses may be conditionally permitted, to include 196 non-residential parcels covering over

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Peter MacDonald, Esq.
Kevin T. Snider, Esq.
May 11, 2007
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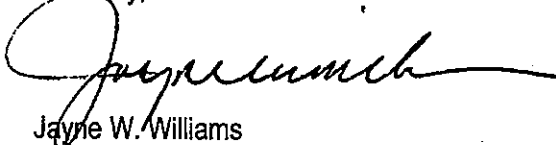
200 acres, in addition to the residential zones where such assembly uses have historically been allowed.

While the City has now determined the Catalina Street site to be inappropriate for addition to the new Assembly Use Overlay Zone, this letter, in the context of the litigation warnings referred to above, is intended to open avenues of discussion to negotiate reasonable alternatives available to accommodate the Church's religious exercise. The City stands prepared to discuss any legally and practicably feasible means of assisting the Church to place itself in a position to operate and thrive within San Leandro for the long-term future.

To commence settlement discussion, the City would require that you and Mr. Snider, on behalf of the Church, its representatives, partners, members, agents, employees, successors, administrators, executors, attorneys, insurers, predecessors, and assigns, agree that all communications (oral or written) between the City and Church shall be confidential and inadmissible in any future legal and/or administrative proceeding when offered to prove liability for, invalidity of, or amount of a claim that was disputed as to validity or amount, or to impeach through a prior inconsistent statement or contradiction. By signing and returning a copy of this letter you, on behalf of the Church, agree to these conditions. Further, by signing this letter you agree, on behalf of the Church, its representatives, partners, members, agents, employees, successors, administrators, executors, attorneys, insurers, predecessors, and assigns, that all communication shall be directed to John Jermanis, City Manager, and /or Jayne Williams, City Attorney, or their designees, and no communication shall be directed directly or indirectly to members of the City Council, members of City Boards or Commissions and/or City staff regarding settlement, without prior express consent of the City Manager or the City Attorney.

The City regards the Church and its members as valued constituents, and believes that the Church's religious exercise can ultimately be better accommodated through discussions with the City rather than through litigation. We hope you agree.

Sincerely,



Jayne W. Williams
City Attorney

Agreed: _____

Peter McDonald, Esq., on behalf of International Church Foursquare Gospel, a.k.a. Faith Fellowship Church

Agreed: _____

Kevin J. Snider, Pacific Justice Institute

Peter MacDonald, Esq.
Kevin T. Snider, Esq.
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Cc: San Leandro City Council
John Jermanis, City Manager

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